THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.15654 of 2002

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Dated:02.03.2006

Between:

Sh. Mohd Mujtaba Ahmed Alvi @ Laddoo S/o S.M. Idris Alvi
Ordinarly residing at New York but presently staying in India,
Saidabad.

..... PETITIONER

AND

Special Director, Enforcement Directorate Foreign Exchange

Regulation Act, Government of India,
Head Quarters Office, Lok Nayak Bhavan,
6th floor, Khan Market, New Delhi-3, and another.

.....RESPONDENTS

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ORDER:

The first respondent issued a show cause notice on 15.06.1995 to the petitioner calling upon him to show cause as to why adjudication proceedings should not be initiated under Section 51 of the Foreign Exchange Regulation Act, 1973 ('FERA' for brevity). In the said show cause notice the petitioner and his brother one Anwar A.Alvi were shown. After receiving the same, the petitioner statedly requested the Director to make available for inspection the original statements of one Usman Gani and the documents seized from him. It is alleged that the documents were not supplied in spite of bringing it to the notice of the first respondent. However, the respondents are proceeding with the enquiry, aggrieved by which, the present writ petition is filed praying for a writ of mandamus directing the first respondent to make available for inspection by the petitioner's Counsel, document Nos.10, 11 and 12 in the annexure appended to the memorandum dated 15.06.1995.

A counter affidavit is filed denying various allegations. It is further stated that the photo copies of the documents attested by the Investigating Officer, Jamnagar, Gujarat, have been supplied to the petitioner, and the allegation that document

Nos.10, 11 and 12 annexed to the memorandum are not supplied, is denied.

The petitioner has not filed any reply affidavit denying the counter averments. Be that as it is, the matter is still at the show cause notice and it is not proper for this Court to interfere at this stage. Even if the allegations of the petitioner are true that he was meted out with unfairness in not supplying the relevant documents and statements, based on which, action under Section 51 of FERA was proposed, it was also open to him to assail such orders, subsequently, when the final orders are passed. That at the show cause notice, whatever be the objections, this Court cannot interfere, is settled law. Indeed, in **Special Director v. Mohd.Ghulam Ghouse**, which is a similar case, the Supreme Court held that all objections can be raised before the authority, who issued show cause notice. If the petitioner is still not satisfied with the documents, it shall be open to him to approach the respondents for verification of the records. As and when such request is made, the petitioner or his Counsel may be permitted to verify the records.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

02.03.2006

vs